

FILED  
CLERK

11:45 am, Jan 24, 2020

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSEPH MALONEY,

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

Plaintiff,

-against-

**ADOPTION ORDER**  
2:16-cv-03899 (ADS) (GRB)

ANDREW M. SAUL, Acting Commissioner  
of Social Security,

Defendant.

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**SPATT, District Judge.**

On July 13, 2016 plaintiff Joseph Maloney (the “Plaintiff”), commenced this appeal pursuant to the Social Security Act, 42 U.S.C. § 405 *et seq.* (the “Act”), challenging a final determination by the defendant, Andrew M. Saul, the Acting Commissioner of the Social Security Administration (the “Defendant” or the “Commissioner”), that he is ineligible to receive Social Security disability insurance benefits.

On January 12, 2018, the Court entered an order granting the Plaintiff’s motion for a judgment on the pleadings pursuant to Rule 12(c), and remanding the Plaintiff’s claim for further administrative proceedings.

On August 9, 2019, the Plaintiff moved for an award of attorney’s fees pursuant to 42 U.S.C. § 406(b).

On October 17, 2019, the Court referred the matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for attorney’s fees should be granted, and if so, what the award should be.

On January 7, 2020, Judge Brown issued a Report & Recommendation (“R&R”) that the Court deny the Plaintiff’s motion as untimely.

Both parties have informed the Court that they have no objections to the R&R.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Court denies the Plaintiff's Section 406(b) motion for attorney's fees.

**SO ORDERED.**

Dated: Central Islip, New York  
January 24, 2020

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge